

April 17, 2013

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Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: **Notice of Ex Parte – WC Docket No. 13-79**  
**Securus Technologies, Inc.; T-NETIX, Inc.; T-NETIX Telecommunications**  
**Services, Inc.; Connect Acquisition Corp.; Securus Investment Holdings, LLC**

Dear Ms. Dortch:

Monica Desai, on behalf of Securus Technologies, Inc., T-NETIX, Inc., T-NETIX Telecommunications Services, Inc. (collectively “Securus Entities”), Connect Acquisition Corp. (“Connect”) and Securus Investment Holdings, LLC (collectively “Applicants”), met with several Federal Communications Commission (“FCC” or “Commission”) staff regarding the Applicants’ request for approval of the indirect transfer of control of domestic and international Section 214 authority through a routine transaction (“Transaction”). The purpose of the meetings was to discuss the Opposition to the Petition to Deny.<sup>1</sup>

On April 15, 2013, Ms. Desai spoke with David Krech from the Policy Division of the International Bureau; Lisa Gelb, Deputy Bureau Chief of the Wireline Competition Bureau; and Jodie May Donovan and Dennis Johnson from the Competition Policy Division of the Wireline Competition Bureau. On April 16, 2013, Ms. Desai met with David Krech and Sumita Mukhoty from the Policy Division of the International Bureau; Lisa Gelb; and Michele Berlove, Bill Dever, Jodie May Donovan, and Dennis Johnson from the Competition Policy Division of the Wireline Competition Bureau.

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<sup>1</sup> Securus Technologies, Inc., T-NETIX, Inc., T-NETIX Telecommunications Services, Inc., Connect Acquisition Corp., and Securus Investment Holdings, LLC, Opposition to the Petition to Deny By Public Knowledge, United Church of Christ, Office of Communications, Inc., Free Press, and Rainbow/Push Coalition, WC Dkt No. 13-79 (filed Apr. 15, 2013) (“Opposition”). Public Knowledge, United Church of Christ, Office of Communication, Inc., Free Press, and Rainbow/PUSH Coalition Petition to Deny Applications, WC Dkt No. 13-79 (filed Apr. 11, 2013) (“Petition”).

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Ms. Desai emphasized that processing of these routine transfer of control applications should not be delayed, the Petition raises policy arguments wholly unrelated to the Transaction, and those policy arguments are being addressed in an active rulemaking docket:

**This is a simple transaction involving an indirect transfer of control from one fund to another:** The Transaction is a simple, routine transfer of control that will be seamless and transparent to the end user customers. The Securus Entities will remain separately certificated entities and continue to provide their inmate telephone services as they are presently provided. As confirmed in the enclosed affidavit of Dennis J. Reinhold (Vice President, General Counsel and Secretary of the Securus Entities, and Secretary of Connect), there will be no changes to any existing contracts as a result of the Transaction.<sup>2</sup> The Transaction is consistent with a prior approval by the FCC involving these Securus Entities,<sup>3</sup> and with recently granted applications for parent-level transfers of control of other inmate telephone service providers.<sup>4</sup>

**The proposed Transaction will not affect the structure of the inmate telecommunications market, and poses no potential for competitive harm:** The same number of competitors that exist prior to the Transaction will remain after completion of the Transaction. No party is exiting the inmate telephone service provider business as a result of the Transaction. The transferee is not even in this line of business.

**The proposed transaction is in the public interest:** ABRY VII, which will ultimately have a controlling equity interest in the Securus Entities, has access to the investment team of ABRY. Founded in 1989, ABRY is one of the most experienced and successful media, communications, business and information services focused private equity investment firms in North America. ABRY invests in high quality companies and partners with management to help build their businesses. Since its founding, ABRY has completed over \$36.0 billion in transactions and other private equity, mezzanine or preferred equity placements, representing investments in over 450 properties. As noted in the Applications, ABRY has significant experience investing in and working with domestic communications providers.<sup>5</sup>

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<sup>2</sup> The affidavit also discusses the status of state approvals and potential harm to Securus if the transaction is delayed.

<sup>3</sup> *Notice of Domestic Section 214 Authorizations Granted*, Public Notice, 26 FCC Rcd 7617 (2011); *see also International Authorizations Granted*, Public Notice, Report No. TEL-01498, 26 FCC Rcd 6891, 6893, 6894 (2011).

<sup>4</sup> *See Notice of Domestic Section 214 Authorization Granted*, WC Dkt No. 11-184, Public Notice, 26 FCC Rcd 16410 (WCB 2011).

<sup>5</sup> *See, e.g., T-NETIX, Inc.: Joint Application for Streamlined Consent to Domestic and International Transfer of Control*, Joint Application for Expedited Approval of Indirect Transfer of Control, WC Docket No. 13-79, at 13-15 (dated Mar. 15, 2013) ("T-NETIX Application").



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Under the proposed transaction, the Securus Entities will have increased opportunities to access capital for important improvements to service. Access to capital resources through the assistance of ABRY VII and its affiliation with ABRY will enhance the ability of the Securus Entities to improve service by, for example, increased investment in technologies that improve call capabilities and enhance public safety. Capital funding will be more readily available to support ongoing operations and to implement changes where improvements are appropriate.

The Commission has recognized that it is in the public interest to facilitate investment in FCC licensed entities.<sup>6</sup> Indeed, by approving prior transactions involving ABRY, the Commission implicitly has recognized the public interest benefits resulting from ABRY's investments in the communications sector.<sup>7</sup>

**The issues raised in the Petition are not relevant to the Transaction and are already being addressed in a separate policy proceeding:** The Commission has an open rulemaking proceeding squarely addressing the reasonableness of inmate telephone rates (WC Docket 12-375) and, in fact, is in the middle of the comment cycle, with reply comments due on April 22, 2013.<sup>8</sup> As the enclosed chart demonstrates, the ongoing inmate rate proceeding squarely tees up the issues raised in the Petition. These issues should be considered in the pending rulemaking, not here.

It is apparent from their statements that the Petitioners are not concerned with the specifics of this Transaction, but instead they are focused more broadly on the rates charged for inmate telephone service throughout the industry.<sup>9</sup> Based on their public statements, the Petitioners appear to be opposed to any company that provides inmate telephone services, such as the Securus Entities.

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<sup>6</sup> See, e.g., *Iridium Holdings LLC and Iridium Carrier Holdings LLC*, Memorandum Opinion and Order and Declaratory Ruling, 24 FCC Rcd 10725, 10732 (2009); *AmericaSky Corp., Application for Authority for Transfer of Control*, Order and Authorization, 11 FCC Rcd 21134, 21130 (1996).

<sup>7</sup> See, e.g., *Notice of Domestic Section 214 Authorizations Granted*, Public Notice, 28 FCC Rcd 1973 (WCB 2013) (approving the transfer of competitive telecommunications services provider to private equity investment funds, including ABRY); *International Authorizations Granted*, Public Notice, Report No. TEL-01512, 26 FCC Rcd 11243 (IB 2011) (approving transfer of Masergy Communications, Inc. to private equity investment funds controlled by ABRY).

<sup>8</sup> *Rates for Interstate Inmate Calling Services*, Notice of Proposed Rulemaking, WC Dkt No. 12-375, 27 FCC Rcd 16629 (2012).

<sup>9</sup> Press Release, Public Knowledge Files Petition to Deny Prison Phone Company Acquisition (Apr. 12, 2013) at <http://publicknowledge.org/public-knowledge-files-petition-deny-prison-phone> (calling the Petition "one of many steps taken to ensure that families are protected from high prison phone rates.")

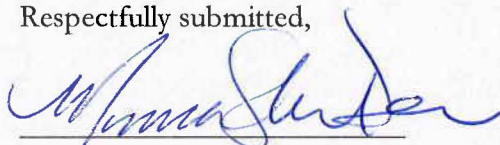
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For example, Cheryl Leanza, policy advisor for United Church of Christ, Office of Communication, Inc., stated in a recent public blog post that “these types of businesses should be stopped, not allowed to expand.”<sup>10</sup> Thus, the Petitioners apparently would not support any transaction involving an inmate telecommunications provider, regardless of whether the FCC rules permit them, and their opposition to this Transaction should be considered in this light.

Respectfully submitted,



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<sup>10</sup> UCC Media Justice Update, “UCC OC Inc. and allies move to block expansion of Securus predatory phone rates” (Apr. 12, 2013) at [http://org2.salsalabs.com/o/6587/p/salsa/web/blog/public/?blog\\_entry\\_KEY=6878](http://org2.salsalabs.com/o/6587/p/salsa/web/blog/public/?blog_entry_KEY=6878).

### DECLARATION OF DENNIS REINHOLD

1. I am the Vice President, General Counsel and Secretary of Securus Technologies, Inc. ("STI"), T-NETIX, Inc. ("T-NETIX"), and T-NETIX Telecommunications Inc. (collectively the "Securus Entities").
2. I am the Secretary of Connect Acquisition Corp. ("Connect").
3. On March 15 and March 18, 2013, the Securus Entities, Connect, and Securus Investment Holdings, LLC ("SIH"), filed five interrelated applications requesting approval, on an expedited basis, of the indirect transfer of control of STI and T-NETIX's domestic and international Section 214 authority, and T-NETIX Telecom's domestic Section 214 authority through a merger transaction involving their current parent, Connect, and SIH (the "Transaction"). The three domestic Section 214 applications were assigned WC Docket No. 13-79. The two international Section 214 applications were assigned file numbers ITC-T/C-20130315-00074 and ITC-T/C-20130315-00075 (collectively, the "Applications").
4. In connection with the Applications, Commission staff has requested that the Securus Entities submit further information about the Transaction.
5. The Securus Entities provide inmate telephone services to state and local correctional facilities. Such services are provided pursuant to contracts with either individual correctional facilities or the state or local government entity that has authority to enter into such contracts.
6. The Transaction proposed in the Applications is an indirect transfer of control of the Securus Entities. After the Transaction is consummated, the Securus Entities will continue to provide services pursuant to existing inmate telephone service provider contracts, and therefore will continue to be bound by all of the terms of those existing agreements, including but not limited to, those provisions governing the rates, terms and conditions of service. The proposed Transaction does not in any way have any impact whatsoever on the existing contracts.
7. The Securus Entities have already received certain state regulatory approvals and are working diligently with local counsel to obtain the approvals required by the parties to consummate the transaction by April 29, 2013.
8. Delay in the processing of the Applications has potential to harm the Applicants for the following reasons:
  - a. The Debt Financing Could Be Put At Risk – The parties have approximately 50 lenders in the banking syndicate that will be providing \$640 million of funded debt to the Securus Entities that are anticipating a closing date of April 30th. A delay in closing could put the syndicated debt transaction and the financing terms at risk.



- b. Interest Rates Could Increase – If the new debt transaction cannot be consummated because of a delay in closing, the Company could face substantial increases in interest costs. For each 10 basis point increase in rates, the Company will pay an additional \$3 million over the terms of the loans.
- c. ABRY Could Terminate The Agreement – ABRY may terminate the merger agreement if delay in obtaining FCC approval is deemed a material adverse change.
- d. Ticking Fee Charged by the Bank Group – In an attempt to keep the new bank deal in place which has already been syndicated (lenders and amounts committed), lenders will require a “ticking fee” in order to hold rates and terms constant as time passes. The Banks anticipated a closing date at the end of April, 2013 and to the extent that slips into May, 2013 – a ticking fee averaging approximately \$25,000 per calendar day will be charged to the Securus Entities until the closing date.
- e. Technology Acquisition on Hold – The Securus Entities presently have an acquisition on hold until the transaction with ABRY is completed that involves a new product set that makes it easier for inmates and friends/family to fund accounts. If the transaction is not timely completed, the sellers of the target acquisition may not wait and may decide to sell to someone else.
- f. Markets Shut Down – Terrorist or other “Act of God” events are unfortunately possible and if they occur, the debt and equity markets could close and funding for the Transaction could be delayed and/or funded at a much higher interest rate. Completing the Transaction as soon as possible reduces this risk.
- g. Additional Cost of Existing Debt – If the Securus Entities continue with existing debt beyond April 30th, they will have to pay an additional \$9,000 per calendar day versus the new debt.

I hereby state, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.



Dennis Reinhold  
Vice President, General Counsel and Secretary  
Securus Technologies, Inc.  
T-NETIX, Inc.  
T-NETIX Telecommunications Inc.

Dated: April 17, 2013

**Issues Raised by Petitioners Are Squarely Addressed in**  
**WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services***

<b>Petitioners' Substantive Issues Raised</b>	<b>Notice of Proposed Rulemaking (FCC 12-167) (rel. Dec. 28, 2012) Addresses These Issues</b>
<p>“However, they do not address the unique features of providing inmate calling services, namely that prison-phone providers have a de facto monopoly in the facilities they serve. The prisoners are inherently not mobile and an incarceration facility may only contract with a single provider. As such, the Applicants’ consumers have no ability whatsoever to select alternative carriers.” Page 5.</p>	<p>“The First Wright Petition requested that the Commission mandate the opening of the ICS market to competition and prohibit collect call only restrictions in privately-administered correctional facilities. ICS contracts are typically exclusive; competition appears to exist in winning an ICS contract but once an ICS provider wins a contract it becomes the sole provider. How do exclusive contracts influence ICS rates? How would competitive ICS services be provided?” ¶ 36.</p>
<p>“[T]he Applicants have functional monopolies over the inmates at facilities they serve. Prior to approving the transaction, the Commission should conduct a market analysis to better understand if continuing to allow these companies to exercise monopolistic power is in the public interest.” Page 6.</p>	<p>“How do exclusive contracts influence ICS rates? How would competitive ICS services be provided?” ¶ 36.</p>
<p>“The Applicants’ charges are neither just nor reasonable. For prisoners and their families, often among the poorest and most disadvantaged members of society, the Applicants charge exorbitant fees. Securus’s calls are priced based on where the caller lives and the originating facility with variations in pricing by the time of day.” Page 7.</p>	<p>“We believe it is appropriate to seek comment to refresh the record and consider whether changes to our rules are necessary to ensure just and reasonable ICS rates for interstate, long distance calling at publicly- and privately-administered correctional facilities.” ¶ 1.</p>

Petitioners' Substantive Issues Raised	Notice of Proposed Rulemaking (FCC 12-167) (rel. Dec. 28, 2012) Addresses These Issues
<p>“Further detailed evidence of Securus’ unreasonable rates and practices have been filed in the rulemaking proceeding the Commission recently opened on this issue.” Pages 7-8 (citing Human Rights Defense Center Comments, WC Docket 12-375 (filed March 25, 2013); John E. Dannenberg, <i>Nationwide PLN Survey Examines Prison Phone Contracts, Kickbacks</i>, 22 Prison Legal News 1, 1 (2011)).</p>	<p>“In the Alternative Wright Petition, Petitioners requested that the Commission set rate caps for interstate long distance ICS. Specifically, Petitioners requested that the Commission ‘establish a benchmark rate for domestic interstate interexchange inmate debit calling service of \$0.20 per minute and a benchmark rate for domestic interstate interexchange inmate collect calling service of \$0.25 per minute, with no set-up or other per-call charge.’ *** We seek comment on the elements of the rate cap proposal and whether the criteria used to develop the proposed caps are appropriate.” ¶ 17.</p>
<p>Petitioners assert that Securus’s rates “appear representative of charges greatly in excess of commercial practices in more competitive markets.” Page 8.</p> <p>➤ “The burden rests upon Applicants to demonstrate that continuation of this disparity is associated with expenses incurred rather than a result of prisoner’s lack of competitive alternatives.” <i>Id.</i></p>	<p>“We seek comment on the elements of the rate cap proposal and whether the criteria used to develop the proposed caps are appropriate.” ¶ 17.</p>

Moreover, these same issues were specifically raised by Petitioners in WC Docket No. 12-375:

Letter from Clarissa Ramon, Public Knowledge, to Marlene H. Dortch, FCC (Mar. 7, 2013) (providing notice of *ex parte* communication by, among others, Public Knowledge and Cheryl Leanza who is a Policy Advisor to Petitioner United Church of Christ):

“The parties reported that support for prison phone rate reform remains strong at the local and state level, and that continued FCC leadership issue has (and continues to have) the salutary effect of mobilizing supporters at all levels of government. The parties urged the FCC to move as expeditiously as possible following the reply comment period to resolve this proceeding in a manner that would alleviate the unjust and unreasonable practices of the carriers.”

Comments of Asian American Justice Center, *et al.* (Mar. 25, 2013) (Free Press, Public Knowledge, and the United Church of Christ as co-signers):



“Specifically, the Commission should cap ICS rates at the lowest possible per-minute rate that is justified by providers’ costs. Furthermore, the Commission should eliminate needless per-call fees and other unjustifiable fees, such as fees to deposit money into an account.” Page 2.

“The main factors contributing to such high rates are excessive commissions paid by ICS providers to state prison systems. In return for these payments, states grant exclusive contracts to the carriers, creating a monopoly within individual facilities. These arrangements preclude competition from driving down prices.” Page 3.

## CERTIFICATE OF SERVICE

I, Ryan King, certify on this 17<sup>th</sup> day of April, 2013, a copy of the foregoing Notice of Ex Parte has been served via First-Class U.S. Mail, Postage Pre-Paid, and via Electronic Mail to the following:

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